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November 8, 2018

**FILED VIA ECF & UNDER SEAL**

Hon. Brian M. Cogan  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11217

**Re: United States v. Guzman Loera, S4 09 CR 466 (BMC)**

Dear Judge Cogan:

I am writing on behalf of defendant Joaquin Guzman Loera in reply to select arguments from the government's November 7, 2018 response (Gov. Resp.) to the defendant's November 2, 2018 motion for reconsideration (Dkt. No. 410) of the Court's October 30, 2018 Order (Dkt. No. 403). Specifically, the government asserts that there is no evidence that CW1 has suffered from any mental instability or received mental health treatment, and therefore cross-examination on his unorthodox beliefs is inappropriate. See Gov. Resp., at p. 2. Additionally, the government states that they are not seeking to preclude cross-examination as to medications or medical treatments undergone by CW1, and that questions regarding his complicated health history are fair game "to the extent they are relevant and that their probative value is not outweighed by the danger of unfair prejudice." Id., at p. 3.

First, setting aside the clear maxim that some people with mental illness are never formally treated, the government has again skirted the issue regarding CW1's beliefs and how they affect his ability to accurately perceive reality both now and in the past. While taking pains to note that the § 3500 materials do not state that CW1 *believes* that a 15 foot tall race of aliens from another universe came to earth to mine gold, but rather that he merely found a television program about the topic "enjoyable" (Gov. Resp., at p. 1, fn. 1), they conveniently neglect to address the fact that he "consistently brought up with others his belief on the impending apocalypse due to the inevitable collision of the Earth with planet 'Nibiru' or planet 'Ofiuco.'" See Government's October 5, 2018 Giglio Letter (Gov. Ltr.), at p. 5; see also Dkt. No. 410, at p. 2. *These* beliefs, which CW1 admits to frequently speaking about, should not just be swept under the rug as they clearly demonstrate a longstanding defect in CW1's ability to perceive

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reality, and were occurring during the time period concerning the events to which CW1 is expected to testify. United States v. Sasso, 59 F.3d 341, 348 (2d Cir. 1995).

Simply put, the totality of the disclosures regarding CW1's beliefs<sup>1</sup>, not simply the few cherry-picked pieces which the government saw fit to respond to, show that he was delusional and believed in multiple apocalyptic planetary-collision theories during the period of time where the events occurred which he will testify concerning. See Gov. Ltr., at p. 5. The defendant must be afforded the opportunity to apprise the jury of these facts so that they can make an informed decision about the strength of CW1's testimony. Davis v. Alaska, 415 U.S. 308, 318 (1974).

Second, the government attempts to separate CW1's health and healthcare as an "entirely separate issue" from his delusional beliefs. Gov. Resp., at p. 2. They acknowledge that CW1 complained about multiple health issues, citing problems with his pancreas and corneas. Id., at p. 3. Indeed, the government indicated that they never sought to preclude cross-examination of CW1 with regards to his health issues and the various treatments which he has received for these ailments. Id. However, this seriously misstates the government's actual position.

In truth, the government is only seeking to permit the defendant to cross-examine CW1 on the treatment methods which the government finds acceptable that the jury hears about. Previously, they moved to preclude the defendant from asking about CW1's alternative treatments, such as his visitations with witch doctors, whose power CW1 has expressed a clear belief in. Dkt. No. 350, at p. 7; 3500-CW1-68. The government should not be allowed to pick and choose which of CW1's treatments the jury is permitted to hear about, and should certainly not be able to claim that they have no objection to cross-examination regarding medical treatments when certain therapeutic remedies sought by CW1 are inextricably entwined with the same eccentric beliefs which the government is actively seeking to preclude the jury from learning about. Accordingly, the jury is entitled to hear *all* of the various methods that CW1 utilized in attempts to improve his condition, whether surgical, pharmacological, or magical, as these extraordinary measures certainly implicate CW1's lack of ability to determine what is real and what is not. See 3500-CW1-68 (CW1 requested that his gardener bring him a witch doctor, this witch doctor claimed someone had "passed their life to [CW1]," and CW1 recalled feeling "a lot of energy" on the same day that an individual named Francisco was killed).

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<sup>1</sup> CW1's "unorthodox" beliefs, consisting of the Illuminati, Freemasons, UFOs, alien life, other galaxies, conspiracy theories, paranoia and apocalyptic obsessions have been discussed extensively in other writings and the defendant is assuming familiarity with the totality of these ideas for the purpose of this reply.

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For the foregoing reasons, the defendant's motion for reconsideration should be granted and the Court should permit cross-examination into CW1's beliefs.<sup>2</sup>

Respectfully submitted,



Jeffrey Lichtman

cc: All counsel (by email and ECF)

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<sup>2</sup> It should be noted that at no point in their response does the government ever claim that any of CW1's beliefs are religious or spiritual in nature and would receive protection under Fed. R. Evid. 610. See, generally, Gov. Resp.